

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

RAUL LOPEZ TAVARES,

Defendant and Appellant.

E071191

(Super.Ct.No. SWF1700408)

OPINION

APPEAL from the Superior Court of Riverside County. Mark Mandio, Judge.

Affirmed.

Russell S. Babcock, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

In a plea to the sheet, defendant and appellant, Raul Lopez Tavares, pled guilty to assault with a deadly weapon. (Pen. Code, § 245, subd. (a)(1); count 1.)¹ Defendant

¹ All further statutory references are to the Penal Code.

additionally admitted personally inflicting great bodily injury on the victim (§ 12022.7, subd. (a)) and personally using a deadly weapon (§ 1192.7, subd. (c)(23)). The court sentenced defendant to an aggregate term of five years of imprisonment, consisting of the low term of two years on the count 1 offense and three years consecutively on the great bodily injury enhancement.

After defense counsel filed a notice of appeal, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the facts and a statement of the case. We affirm.

I. PROCEDURAL BACKGROUND

The People charged defendant by felony information with assault with a deadly weapon. (§ 245, subd. (a)(1); count 1.) The People additionally alleged defendant personally inflicted great bodily injury on the victim (§ 12022.7, subd. (a)) and personally used a deadly weapon (§ 1192.7, subd. (c)(23)). Defendant pled to the sheet. The factual basis for defendant's plea consisted of defendant's admissions that he committed the offenses and allegations to which he pled and admitted.

Defendant initialed the provisions of and signed the plea form indicating he had read the agreement and understood the consequences of the plea. Defense counsel signed the form reflecting he was satisfied defendant understood the consequences of the plea. Two of the consequences of the plea expressly enumerated therein were that his plea

could have immigration consequences, such as deportation, if he was not a citizen and that he would be serving a prison sentence of no more than seven years.

The court asked defendant if he had initialed, signed, and gone over the form with defense counsel; defendant responded that he had. Defendant stated he had no questions regarding the plea form. The court expressly asked defendant if he understood that, due to the plea, the court could sentence him to seven years of imprisonment; defendant said he understood.

After sentencing, defendant stated: “The attorney told me to say I’m guilty. I’m not guilty. He told me that if I pled guilty, I was going to be granted probation.” The court interpreted defendant’s remarks as a motion to withdraw his plea, relieved defendant’s retained counsel, and appointed him a public defender to explore the possibility of filing a formal motion to withdraw the plea. After several continuances, appointed counsel indicated no intention to file a motion to withdraw the plea.

Defendant appealed, challenging the validity of the plea. Defendant’s request for a certificate of probable cause reflects that he was misadvised about the consequences of the plea, particularly the potential immigration consequences, and that he would be sentenced to prison instead of placed on probation. The court granted the request for a certificate of probable cause.

II. DISCUSSION

We offered defendant an opportunity to file a personal supplemental brief, which he has not done. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error and find no arguable issues.

III. DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

McKINSTER
Acting P. J.

We concur:

FIELDS
J.

RAPHAEL
J.